

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Kacy R. Rankine)	File No: EB-05-NY-301
)	
West Orange, NJ)	NAL/Acct. No: 200732380001
)	
)	FRN: 0015 1782 62
)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: March 16, 2011**Released: March 17, 2011**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“MO&O”), we deny the petition for reconsideration (“*Petition*”)¹ filed by Kacy Rankine (“Rankine”) of the *Forfeiture Order* issued on January 26, 2007.² The *Forfeiture Order* imposed a monetary forfeiture in the amount of \$10,000 for willful and repeated violation of section 301 of the Communications Act of 1934, as amended (“Act”),³ by operating an unlicensed radio transmitter on the frequency 90.1 MHz in Newark, New Jersey.

II. BACKGROUND

2. In the *Forfeiture Order*, the Enforcement Bureau (“Bureau”) held that Rankine, who failed to respond to the *NAL*, operated an unlicensed radio station in Newark, NJ.⁴ In his *Petition*, Rankine does not dispute the findings in the *NAL* or the *Forfeiture Order*, and thus the facts established in the *NAL* and *Forfeiture Order* are incorporated herein by reference. Rankine requests, however, that the forfeiture be cancelled or substantially reduced based on his inability to pay. Rankine does not submit any documentation in support of his request and further states that he is “unable to make the [financial] showing required” for relief under the *NAL*.⁵

III. DISCUSSION

3. For the reasons discussed below, we deny Rankine’s request for reconsideration of the *Forfeiture Order*. Rankine’s sole basis for seeking reconsideration is that he does not have the financial resources to pay the proposed forfeiture, a claim that he has not previously presented to the Bureau. A

¹ See *Kacy R. Rankine*, Petition for Reconsideration (filed February 26, 2007) (“*Petition*”).

² *Kacy R. Rankine*, Forfeiture Order, 22 FCC Rcd 750 (Enf. Bur. 2007)(“*Forfeiture Order*”), *aff’g* Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200732380001 (Enf. Bur., New York Office, rel. Nov. 3, 2006)(“*NAL*”).

³ 47 U.S.C. § 301.

⁴ See *Forfeiture Order*.

⁵ See *Petition* at 2.

petition for reconsideration that relies on facts not previously presented to the designated authority may be granted only if: (1) the designated authority (the Bureau in this instance) determines that consideration of the new facts is required to serve the public interest; (2) the petition relies on facts that relate to events that occurred or circumstances that have changed since the last opportunity to present such matters; or (3) the petition relies on facts unknown to the petitioner until after his last opportunity to present such matters.⁶ In his *Petition*, Rankine does not provide the requisite information that would allow us to evaluate whether he meets any of the three criteria for reconsideration. As we noted in the *NAL*, “[t]he Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (‘GAAP’); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.”⁷ Rankine not only fails to provide any documentation, but he states in his *Petition* that he is unable to do so.⁸ We therefore conclude that the matter before us does not warrant reconsideration and we affirm the *Forfeiture Order*.

IV. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED** that, pursuant to section 405 of the Communications Act of 1934, as amended,⁹ and section 1.106 of the Commission’s rules (“Rules”),¹⁰ that the *Petition for Reconsideration* filed by Kacy Rankine **IS DENIED** and the *Forfeiture Order* **IS AFFIRMED**.

5. **IT IS ALSO ORDERED** that, pursuant to section 503(b) of the Act, and sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹¹ Kacy Rankine **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of section 301 of the Act.

6. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules within thirty (30) days of the release of this Memorandum Opinion and Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.¹² Payment of the forfeiture must be made by credit card, check, or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL*/Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the *NAL*/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be

⁶ 47 C.F.R. § 1.106(c).

⁷ See *NAL* ¶ 22.

⁸ See *Petition* at 2. Even if we were inclined to consider Rankine’s claim of financial hardship, in the absence of the required showing and any objective documentation, we would have no basis for determining the extent to which cancellation or reduction of the forfeiture is appropriate.

⁹ 47 U.S.C. § 405.

¹⁰ 47 C.F.R. § 1.106.

¹¹ 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹² 47 U.S.C. § 504(a).

sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Rankine shall also send electronic notification to NER-Response@fcc.gov on the date said payment is made.

7. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order shall be sent by both regular mail and by certified mail, return receipt requested, to Rankine's address of record.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau